

Dynamics Formulation Of The Compilation Of Islamic Law And Role In Realizing Legal Certainty In Indonesian Religious Courts.

Hasan Munthe¹ Adrian Seputro Ginting²

¹Islamic College of Aceh Tamiang

²State Islamic University of North Sumatra

Email: hasanmunthe900@gmail.com adrianseputro11@gmail.com

Info Articles	Abstract
<p>Article History Received : 2021-07-03 Revised: 2021-07-11 Published: 2021-07-30</p> <p>Keywords: <i>Compilation Of Islamic Law; Fiqh; Ijtihad; Legal Unification; Religious Courts.</i></p>	<p>This study aims to analyze the formulation process and reference sources of the Compilation of Islamic Law and its urgency in the development of Islamic civil law in Indonesia. The background of this study is based on the conditions before the birth of the Compilation of Islamic Law, which were characterized by the absence of uniform legal references in the religious courts, resulting in legal uncertainty due to differences in interpretation by judges who refer to various classical fiqh books. This study uses a normative juridical method with a historical and conceptual approach, through analysis of legal documents, fiqh literature, and jurisprudence practices. The results show that the Compilation of Islamic Law is a product of collective ijtihad formulated through systematic stages, including the study of fiqh books, interviews with scholars, jurisprudence analysis, and comparative studies with Muslim countries. The reference sources of the Compilation of Islamic Law include the Qur'an, Hadith, ijma', qiyas, and various fiqh books from different schools of thought, which are then contextualized with the social conditions of Indonesian society. The presence of the KHI (Compilation of Islamic Law) plays a significant role in achieving legal unification and certainty in religious courts, while also serving as a codification of Islamic law that adapts to the national legal system. Thus, the KHI serves not only as a normative guideline but also as a crucial instrument for harmonizing sharia values and positive law in Indonesia.</p>

I. INTRODUCTION

Islamic law holds a strategic position in the Indonesian legal system, particularly in regulating aspects of Muslim civil law such as marriage, inheritance, and endowments. As a predominantly Muslim country, the need for a legal system that accommodates sharia values while aligning with national law is a necessity. However, prior to the issuance of the Compilation of Islamic Law (KHI), the application of Islamic law within religious courts exhibited significant heterogeneity. Judges, in deciding cases, tended to refer to various classical fiqh texts from various schools of thought, particularly the Shafi'i school, which, despite its rich scholarly heritage, often led to differing interpretations of similar cases.

This situation has implications for legal uncertainty and disparity in decisions within the religious courts. Differences in the references used by judges, whether based on educational background, school of thought preferences, or personal understanding of fiqh texts, lead to inconsistent decisions. This situation is certainly inconsistent with the basic principles of the rule of law, which demand legal certainty, justice, and

utility. Furthermore, the classical fiqh texts used as references were generally written in a social and cultural context different from the conditions of modern Indonesian society, often requiring adjustments to maintain relevance to evolving social realities.

Based on this need, the Indonesian government initiated efforts to codify Islamic law in the form of the Compilation of Islamic Law (KHI), which is expected to serve as a standard guideline for judges in religious courts. The KHI emerged as the result of a long process involving various elements, including religious scholars, academics, legal practitioners, and the government. Therefore, it can be seen as a form of collective ijtihad by the Indonesian nation. The formulation process was carried out through various systematic stages, such as reviewing fiqh books, interviews with scholars in various regions, analyzing jurisprudential decisions, and comparative studies with Islamic legal systems in other countries. This approach demonstrates that the KHI is not only sourced from normative texts but also considers legal practices within society.

The reference sources in the Compilation of

Islamic Law (KHI) reflect the integration of the basic principles of Islamic law with the contextual needs of Indonesian society. In addition to referring to the Qur'an and Hadith as primary sources, the KHI also adopts the methods of *ijma'* and *qiyas* (consensus) and the opinions of various scholars from different schools of thought. This demonstrates an effort to present Islamic law that is not rigid, but rather adaptive and responsive to social dynamics. Thus, the KHI serves not only as a compilation of norms but also as an instrument for reforming Islamic law relevant to the national context.

The presence of the Compilation of Islamic Law (KHI) has significant implications for the development of Islamic civil law in Indonesia. One of its main contributions is the creation of legal unification within the religious courts, which were previously characterized by a plurality of *fiqh* references. With the KHI, judges have clearer and more uniform guidelines for deciding cases, thereby minimizing differences in decisions in similar cases. Furthermore, the KHI also provides legal certainty for the public, as the norms used have been codified in a systematic and easily understood form.

On the other hand, although the Compilation of Islamic Law (KHI) is not a law in the formal sense, its existence has gained strong legitimacy in legal practice in Indonesia. This is evident in its widespread use by religious court judges as a basis for deciding cases, as well as its acceptance by the public as a reference in resolving civil law issues. Thus, the KHI can be viewed as part of positive law that has a strategic function in bridging the gap between sharia values and the national legal system.

Based on this description, a study of the formulation process and reference sources of the Compilation of Islamic Law (KHI) is crucial for understanding how Islamic law was codified and adapted in the Indonesian context. This study seeks to deeply analyze the process of the KHI's formation, the legal sources used, and its importance in creating legal certainty and uniformity in religious courts. Therefore, it is hoped that this research will contribute academically to the development of Islamic legal studies and serve as a reflection on efforts to reform Islamic law in Indonesia to ensure its relevance to current developments.

In the context of national legal developments, the integration of Islamic law into the Indonesian legal system is inseparable from the pluralistic character that characterizes this country. Indonesia recognizes not just one legal system, but rather three coexisting legal systems: customary law, Western law, and Islamic law. In this context, the Compilation of Islamic Law is crucial as a formalization of Islamic law that can be accommodated within the national legal framework without ignoring the diversity of existing legal systems. The Compilation of Islamic Law serves as a meeting point between sharia values and modern legal principles applicable in Indonesia's constitutional state.

Furthermore, increasingly dynamic societal developments have driven the need for laws that are not only normative but also responsive to social change. Globalization, modernization, and increasing public legal awareness demand legal certainty that is not only formal but also substantive. In this regard, Islamic law, which previously relied heavily on classical *fiqh* texts, needs to be contextualized to address contemporary issues, such as family disputes, women's rights, and property management in modern society. Furthermore, the urgency of codifying Islamic law through the Compilation of Islamic Law (KHI) is also related to efforts to improve the quality of religious courts as institutions authorized to handle Islamic civil cases. Without uniform legal guidelines, religious courts have the potential to experience inconsistencies in their decisions, which can ultimately undermine public trust in the judiciary. Therefore, the KHI serves not only as a legal instrument but also as an institutional instrument that strengthens the legitimacy and professionalism of religious courts in Indonesia.

On the other hand, the Compilation of Islamic Law (KHI) also reflects an effort to reform Islamic law that is not revolutionary, but rather evolutionary. This means that the changes made remain rooted in Islamic scholarly tradition but are adapted to the needs of the times. This approach demonstrates that Islamic law has the flexibility to develop without losing its fundamental essence. Thus, the Compilation of Islamic Law can be understood as a concrete form of adaptation of Islamic law to the challenges of modernity.

Considering these various aspects, it can be concluded that the presence of the KHI is not only motivated by practical needs in religious courts, but also forms part of a broader strategy for developing an inclusive and just national law. Therefore, the study of the KHI is becoming increasingly relevant, not only from a historical and normative perspective, but also in the context of the future-oriented development of Islamic law.

II. RESEARCH METHODS

This research uses a normative juridical method that focuses on the study of legal norms contained in various sources of Islamic law and legislation related to the Compilation of Islamic Law. This approach was chosen because the research aims to analyze the formulation process, reference sources, and the position of the Compilation of Islamic Law in the national legal system, thus requiring an in-depth review of primary and secondary legal materials. In this context, law is understood as norms or rules that apply in society and serve as guidelines in resolving cases, particularly in the religious court environment. The approaches used in this research include a historical approach and a conceptual approach. The historical approach is used to trace the background of the birth of the Compilation of Islamic Law, starting from the conditions before the codification of Islamic law, the formulation process involving various parties, until its ratification through a Presidential Instruction. Meanwhile, the conceptual approach is used to examine basic concepts in Islamic law such as *fiqh*, *ijma'*, and *qiyas*.

III. RESULTS AND DISCUSSION

A. Research result

The research findings show that the Compilation of Islamic Law (KHI) was born in response to the urgent need for uniformity and legal certainty in resolving cases within the religious courts. Prior to the KHI, judges used various *fiqh* books as primary references, resulting in differing decisions in similar cases. Using a normative juridical approach with historical and conceptual analysis, it was found that the KHI formulation process was carried out systematically through the study of *fiqh* books, interviews with scholars, jurisprudence analysis, and comparative studies with Muslim countries.

Furthermore, the KHI's reference sources were not limited to the Qur'an and Hadith, but also included *ijma'*, *qiyas*, and the opinions of scholars from various schools of thought contextualized with the social conditions of Indonesian society. This demonstrates that the KHI is the result of collective *ijtihad* that is adaptive and responsive to national legal needs. In practice, the KHI has proven to play a significant role in creating legal unification and providing legal certainty for judges and the public. Thus, the KHI not only functions as a normative guideline, but also as an effective instrument in harmonizing sharia values and the national legal system in Indonesia.

B. Discussion

The research findings indicate that the Compilation of Islamic Law (KHI) addresses the pressing need for uniformity and legal certainty in religious court practice in Indonesia. Prior to the enactment of the KHI, judges within religious courts used various classical *fiqh* texts as primary references in deciding cases. These texts, while possessing significant scholarly authority, originated from different schools of thought and were compiled within a social context that was not always relevant to Indonesian society. Consequently, disparities in decisions in similar cases occurred due to differences in interpretation and choice of references by judges (Nurjihad, 2004:110).

This situation demonstrates the lack of legal certainty and the lack of legal unification, a crucial characteristic of the modern legal system. Efforts to address these issues were realized through the systematic and structured formulation of the KHI (Indonesian Islamic Compilation of Islamic Law). Based on a historical approach, the KHI's formation process was inseparable from government policy through the Joint Decree of the Chief Justice of the Supreme Court and the Minister of Religious Affairs in 1985, which marked the beginning of the Islamic law codification project in Indonesia. This process involved various elements, such as academics, religious scholars, and legal practitioners, thus reflecting a form of collective *ijtihad* in formulating contextual Islamic law (Hikmatullah, 2017:39). The stages undertaken included the study of dozens of *fiqh* books, interviews with religious scholars in various regions, the collection and analysis of jurisprudence, and

comparative studies with Muslim countries such as Egypt, Morocco, and Turkey. This approach demonstrates that the KHI is not only based on normative texts but also considers legal practices within society. In terms of reference sources, the KHI integrates various sources of Islamic law, both classical and modern. The primary sources remain the Qur'an and Hadith, which are then strengthened by the methods of *ijma'* and *qiyas* as instruments of legal reasoning. Furthermore, various *fiqh* books from the Shafi'i, Hanafi, Maliki, and Hanbali schools of thought also served as important references in the compilation of the KHI. Furthermore, studies of these books were conducted selectively and contextually to suit the needs of Indonesian society (Arifin, 1996:162-163).

This demonstrates that the KHI is not merely textual in nature, but rather adaptive to social developments and national legal needs. Furthermore, research findings also indicate that the KHI plays a strategic role in creating legal unification within the religious courts. With the KHI, judges have a uniform guideline for deciding cases, thereby minimizing differences in decisions in similar cases. This aligns with the primary objective of legal codification, namely to create legal certainty and uniformity. Furthermore, the existence of the KHI also makes it easier for the public to understand their rights and obligations in Islamic civil law, as the regulated norms have been systematically structured in the form of clear articles (Abdurrahman, 1992:49).

From a national legal perspective, although the Compilation of Islamic Law (KHI) does not have formal legal standing, its existence has gained strong legitimacy both legally and sociologically. Legally, the KHI was enacted through Presidential Instruction No. 1 of 1991, which established it as the official guideline for resolving cases in religious courts. Meanwhile, sociologically, the KHI has been widely accepted and used by the public and legal practitioners as the primary reference in resolving Islamic civil issues. Thus, the KHI can be viewed as part of the living positive law in Indonesian society. Furthermore, the KHI also serves as a bridge between sharia values and the pluralistic national legal system. In this context, the KHI not only adopts Islamic legal principles normatively but also adapts them to modern legal principles such

as legal certainty, justice, and expediency. This makes the KHI a form of harmonization between religious law and state law, capable of comprehensively addressing the needs of the Indonesian Muslim community. Thus, this discussion confirms that the Compilation of Islamic Law (KHI) is the result of a long process involving various approaches and legal sources, and plays a crucial role in the development of Islamic civil law in Indonesia. Its existence not only creates legal unification and certainty but also demonstrates that Islamic law can be codified adaptively and responsively to social dynamics. Therefore, the KHI can be viewed as a successful form of Islamic legal reform within the context of a modern rule of law.

The discussion of the Compilation of Islamic Law (KHI) does not stop at its historical aspects and formulation process, but also requires further analysis from a theoretical and implementative perspective within the national legal system. In this context, the KHI can be understood as part of the state's legal policy in accommodating Islamic law within Indonesia's positive legal framework. This legal policy demonstrates the state's desire to make Islamic law a source of national law, particularly in the area of family law, without necessarily making it universally applicable to all citizens. This approach reflects a compromise between the principles of a modern rule of law and the aspirations of the Muslim community, which demands the application of sharia values in legal practice. Conceptually, the KHI is a codified form of Islamic law that has its own characteristics compared to classical *fiqh* texts. While classical *fiqh* is more doctrinal and interpretive, the KHI is structured as a systematic, concise, and operational legal norm. This transformation from *fiqh* to codification is a crucial step in making Islamic law more applicable in judicial practice. This aligns with the view that effective law must be certain and consistently implemented by law enforcement officials (Abdurrahman, 1992:49). Thus, the KHI is not only a collection of norms but also a legal instrument with practical utility in resolving Islamic civil disputes.

From a sociological perspective, the success of the KHI can also be seen in the level of public acceptance of its existence. The KHI did not emerge solely from a top-down approach, but

rather through a participatory process involving religious scholars and community leaders from various regions in Indonesia. The interviews and national workshops conducted during its formulation indicate that the KHI reflects the needs of living law within Indonesian Muslim society (Hikmatullah, 2017:39). Therefore, the norms contained in the KHI are relatively easy to accept and implement, having undergone a process of adaptation to the social and cultural values of the local community. Furthermore, in the context of the theory of legal pluralism, the KHI can be viewed as a form of integration between the various legal systems existing in Indonesia. As is known, the Indonesian legal system is not a single system, but rather consists of customary law, Western law, and Islamic law. In this context, the KHI functions as a bridge connecting Islamic law with the national legal system, thus creating harmony between the three systems. This integration is important to avoid normative conflicts and ensure that applicable laws can provide justice for all levels of society (Arifin, 1996:162-163).

In terms of implementation, the KHI plays a significant role in improving the quality of decisions within the religious courts. With clear and uniform guidelines, judges no longer rely entirely on personal interpretations of diverse fiqh texts. This has implications for increased consistency in decisions, ultimately strengthening legal certainty. Legal certainty is a fundamental principle in a state based on the rule of law, as it guarantees the public that the law will be applied fairly and without discrimination (Nurjihad, 2004:110). Furthermore, the KHI also simplifies the process of providing evidence and legal argumentation in court, as the norms used have been explicitly formulated in articles. However, it cannot be denied that the KHI also faces various challenges in its implementation. One frequent criticism is that the KHI is not fully responsive to contemporary developments, such as gender equality, child protection, and human rights. Some provisions in the KHI are still considered to reflect classical fiqh views that have not been fully adapted to current developments. Therefore, reform efforts are needed to ensure the Compilation of Islamic Law remains relevant to ever-changing social dynamics. This reform can be achieved through revisions to specific articles

or through progressive interpretations by judges in judicial practice.

Furthermore, from a legal perspective, the KHI's position, based solely on a Presidential Instruction, has also sparked debate regarding its binding power within the hierarchy of statutory regulations. Nevertheless, in practice, the KHI has gained strong legitimacy as a source of material law within the religious courts. This demonstrates that the validity of a legal norm is determined not only by its formal force, but also by its acceptance and use in legal practice (law in action). In other words, the KHI has developed into a living part of positive law within Indonesian society. Furthermore, the KHI's role in harmonizing Islamic law and national law can also be seen in its ability to accommodate modern legal principles. For example, in the area of marriage, the KHI regulates in detail the rights and obligations of husband and wife, divorce, and the protection of women. These provisions demonstrate an effort to balance sharia principles with the values of social justice recognized in national law. Thus, the KHI not only maintains traditional values but also adopts modern principles relevant to societal needs.

In a global context, the existence of the Compilation of Islamic Law (KHI) also demonstrates that Indonesia has its own model for developing moderate and contextual Islamic law. Unlike some Muslim countries that formally implement Islamic law within their national legal systems, Indonesia has chosen a more flexible approach by selectively integrating Islamic law into the national legal system. This approach allows for a balance between religious values and the principles of democracy and pluralism that underpin the Indonesian state.

Thus, it can be concluded that the Compilation of Islamic Law (KHI) plays a highly strategic role not only in creating legal certainty and uniformity, but also in developing Islamic law that is adaptive and responsive to societal dynamics. Its existence, as the result of collective *ijtihad*, demonstrates that Islamic law has the flexibility to evolve according to the needs of the times. Therefore, strengthening and developing the KHI in the future is crucial to ensure that Islamic law remains relevant and can make a real contribution to the development of a just national law.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the research results, Compilation of Islamic Law is a product of collective ijtihad born from the need for uniformity and legal certainty in the religious courts. The formulation process was carried out systematically through the study of fiqh books, interviews with scholars, jurisprudence analysis, and comparative studies, with reference to the Qur'an, Hadith, ijma', and qiyas contextualized with the social conditions of Indonesian society. The presence of the KHI has proven capable of realizing legal unification and increasing legal certainty in the practice of religious courts, while also being an important instrument in harmonizing sharia values and the national legal system. Thus, the KHI plays a strategic role in the development of Islamic civil law in Indonesia and demonstrates that Islamic law can be codified adaptively and responsive to the dynamics of the times.

B. Suggestion

Based on the research findings in the Compilation of Islamic Law, ongoing efforts to strengthen and develop the Compilation of Islamic Law (KHI) are needed through more in-depth academic studies of the formulation process, reference sources, and its implementation in religious court practice. Furthermore, updates to the KHI material need to be carried out selectively to maintain its relevance to the social dynamics of Indonesian society without eliminating the fundamental values of sharia. Furthermore, improving the understanding and professionalism of religious court officials is also crucial for the consistent implementation of the KHI and its ability to achieve legal certainty and justice. Thus, the KHI is expected to continue to develop as an adaptive, contextual legal instrument that supports the advancement of Islamic civil law in Indonesia.

REFERENCE LISTAN

Daulay, A. I., & Hakim, F. (2025). Kesetaraan gender dalam hukum perkawinan Islam: Antara idealitas normatif dan realitas sosial. *Journal of Dual Legal Systems*, 2(1).

Musaiyana, M., Ridwan, A. H., & Rusyana, A. Y. (2025). Integrasi fatwa DSN-MUI ke

dalam Kompilasi Hukum Ekonomi Syariah: Upaya formulasi hukum ekonomi syariah sebagai produk perundang-undangan nasional. *Equality: Journal of Islamic Law*, 3(2).

Nurfajri, M., Rahman, S., & Risma, A. (2025). Efektivitas Pasal 185 Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam. *Journal of Lex Philosophy*, 6(1).

Saifullah, M. A., Hayatudin, A., & Sulistiani, S. L. (2026). Analisis meningkatnya dispensasi nikah di pengadilan agama menurut hukum Islam. *Jurnal Riset Hukum Keluarga Islam*, 5(2).

Salas, M., Wardani, S., & Suroso, T. (2025). Harmonisasi hukum waris Islam, hukum adat dan hukum nasional: Telaah normatif terhadap Kompilasi Hukum Islam, hukum adat dan KUHPerdota. *Jurnal Penelitian Serambi Hukum*, 18(2), 275-286.

Sofiyana, M. A., & Kaha, H. (2026). Konstruksi dan dekonstruksi hukum talak dalam Kompilasi Hukum Islam: Studi kritis atas praktik yudisial di pengadilan agama. *Posita: Jurnal Hukum Keluarga Islam*, 3(2).